## SUPERIOR COURT OF ARIZONA MARICOPA COUNTY

LC2003-000668-001 DT

02/06/2004

HONORABLE MICHAEL D. JONES

CLERK OF THE COURT
P. M. Espinoza
Deputy

STATE OF ARIZONA JASON C ADAMS

V.

CHRISTOPHER GALLOWAY (001) JOSEPH E COLLINS

CHANDLER CITY-MUNICIPAL COURT REMAND DESK-LCA-CCC

## RECORD APPEAL RULE / REMAND

This Court has taken under advisement the issues presented in Petitioner/Defendant Christopher Galloway's Petition for Review. This Court held oral argument in this case on December 8, 2003. This decision is made within sixty (60) days as required by Rule 9.9, Maricopa County Superior Court Local Rules of Practice. This Court has considered the record of the proceedings from the Chandler Municipal Court and the pleadings submitted, as well as the oral argument of counsel. The State's position appears to be that Rule 32 proceedings are not warranted in this case. The State contends that Petitioner/Defendant Galloway's Motion is simply a motion to modify his sentence rather than a request for Rule 32 relief. This Court rejects that position.

Previously, the Petitioner requested that the trial court modify his sentence in some manner so as not to interfere with his taking of required and prescribed medication during the period of his incarceration. It appears from the pleadings that the Maricopa County Sheriff's Office will not allow the Petitioner/Defendant to bring his medications and take those medications while incarcerated. There also appears to be some material fact as to the necessity of taking these medications, and their availability to the Petitioner/Defendant through Correctional Health Services while incarcerated in the jail. Thus, this Court determines that there are several material issues of fact which may affect the Petitioner/Defendant's right to relief under Rule 32. This Court concludes that the trial court erred in not holding an evidentiary hearing in this case on the Petitioner/Defendant's request. It appears to this Court that an evidentiary hearing would be helpful in determining: (1) Whether the medications are required and would not be otherwise available to the Petitioner/Defendant during the period of his Form L512 Docket Code 512 Page 1

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incarceration in the custody of the Maricopa County Sheriff; (2) Whether arrangements or orders by the court can ensure that the Petitioner/Defendant will have access to any required and necessary medications; and (3) If there are alternative venues of incarceration available where the Petitioner/Defendant will have access to necessary and required medications during his incarceration.

IT IS ORDERED granting the Petition for Review in this case.

IT IS ORDERED remanding this case back to the trial court for an evidentiary hearing consistent with this opinion.

IT IS FURTHER ORDERED terminating the stay order previously issued in this case.

/ s / HONORABLE MICHAEL D. JONES

JUDICIAL OFFICER OF THE SUPERIOR COURT